

Temporary storage is not applicable to transactions where there is Retailers' Occupation Tax liability because the exemption is limited to situations where the only liability that can be involved is Use Tax. 86 Ill. Adm. Code 150.310. (This is a GIL)

October 5, 2000

Dear Xxxxx:

This is in response to your letter dated June 26, 2000. We regret the delay in responding to your request. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter of June 12, 2000, you have stated and made inquiry as follows:

COMPANY would like a letter ruling on the following scenario:

We are an Illinois registered vendor/manufacturer of wire and cable products. We have a customer located in Canada who is not registered in Illinois for sales tax purposes. The Canadian customer places the order with our location outside of Illinois then asks us to ship our product from outside Illinois to a warehouse located within Illinois, (see attached invoice copy). The Canadian customer will then pick up the material via a common carrier at the arranged warehouse to ship to their customer located outside Illinois.

The Canadian customer is claiming sales tax exemption under Illinois Administrative Code Section 150.310a)4) Temporary Storage, (see attached letter). Can we accept the following letter as enough documentation to exempt our Canadian customer from having to pay Illinois sales/use tax and to exempt COMPANY liability to collect and remit the Illinois sales/use tax to the Department of Revenue?

Please respond in a letter ruling that is binding on the Department of Revenue.

Due to the very limited information provided in your letter and the attached documents, we are unable to comment on the availability of an Illinois use tax exemption to your client. We are providing, however, a general explanation of the temporary storage use tax exemption afforded the use of tangible personal property in Illinois where the tangible personal property is merely stored here temporarily. This information may be used for your reference in determining your duty to collect and remit sales tax from your client in the situation you describe.

Enclosed is a copy of 86 Ill. Adm. Code 150.310, the regulation governing "Exemptions to Avoid Multi-State Taxation". A temporary storage exemption from the imposition of use tax is available where tangible personal property is "acquired outside this State and which, subsequent to being brought into this State and stored here temporarily, is used solely outside this State or is physically attached to or incorporated into other tangible personal property that is used solely outside this State, or is altered by converting, fabricating, manufacturing, printing, processing or shaping, and, as altered, is used solely outside this State". See 86 Ill. Adm. Code 150.310(a)(4).

As you can see, this exemption only applies to transactions in which the materials are acquired outside this State and after their temporary stay in Illinois are shipped out of Illinois and used solely outside Illinois. When property is located in Illinois at the time of sale, or if such property is not acquired outside this State, the transaction is an Illinois retail sale subject to Retailers' Occupation Tax liability. Temporary storage is not applicable in transactions where there is Retailers' Occupation Tax liability because the exemption is limited to situations where the only liability that can be involved is Use Tax. See 86 Ill. Adm. Code 150.310(b) enclosed.

In your letter you stated that COMPANY is registered to do business in Illinois but that your client places its order with your location outside Illinois and the product is shipped from a place outside Illinois. Please be aware that since the temporary storage exemption applies in transactions where the only tax involved is Use Tax incurred by the purchaser, the exemption would not apply where Retailers' Occupation Tax liability is also incurred by you as the seller in the same transactions.

In order to properly document the temporary storage exemption, the purchaser should give certificates to the seller which state that the tangible personal property is acquired outside Illinois and brought in to Illinois only temporarily for storage, or for converting, fabricating, manufacturing, printing, processing, or shaping, and is subsequently shipped out of Illinois to be used solely outside the State of Illinois.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b).

Sincerely,

Dana Deen Kinion
Associate Counsel

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Enc.